

## Matrix of Local Ordinances Restricting Tobacco Retailers Near Schools July 2013

In order to reduce illegal sales of tobacco products to minors and prevent youth from getting addicted to tobacco products, many cities and counties in California have restricted the location of tobacco retailers near schools. Studies have shown that the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased smoking rates and that one-third of illegal tobacco sales take place within 1,000 feet of schools.

This matrix lists 29 municipalities in California that have adopted an ordinance to restrict the location of tobacco retailers within a certain distance of schools. The cities and counties are listed in reverse chronological order from the most recently passed. To be included on this matrix, the ordinance must require all tobacco retailers or significant tobacco retailers to be located 500 feet or more away from schools. The definition of significant tobacco retailers varies by ordinance, therefore, the strength of each of these 29 ordinances varies and policy details are included in this matrix help to highlight these differences.

### Type of Ordinance

There are four different ways for local governments to restrict the location of tobacco retailers and the first section of the matrix designates which type of policy each municipality has adopted. While each of these policy options can accomplish the goal of restricting tobacco retailers near schools, using the tobacco retailer licensing ordinance to do this is the best approach for dealing with current tobacco retailers located within the restricted area around a school, it is more efficient to enforce, and therefore it is recommended. For this reason, the tobacco retailer licensing column is highlighted. Full explanations for each of the four policy types, along with the matrix abbreviation and information about how many municipalities have adopted that type of policy, are listed below.

1. **Tobacco Retailer Licensing Ordinance (TRL)** – this type of law requires all tobacco retailers to obtain a license in order to sell tobacco products in the municipality and a requirement can be added to the licensing ordinance that a retailer cannot obtain a license if they are located within a certain distance of schools. Because tobacco retailer licenses are only granted for a set period of time (one year) and must be renewed annually, it is more efficient to implement location restrictions through a licensing ordinance by simply not renewing licenses for businesses in prohibited locations. Seven municipalities use this type of policy to restrict sales near schools.
2. **Zoning Ordinances (Zoning)** – zoning regulations establish what type of uses are allowed for each type of property or district. A zoning ordinance can be used to specifically prohibit a tobacco retailer from operating within a certain distance of schools. Six municipalities use this policy to restrict sales near schools.
3. **Conditional Use Permit (CUP)** – the requirement that a business obtain a Conditional Use Permit (CUP) is a requirement typically imposed through a community's zoning code that allows a city or county to make an individualized determination about the use of a property in a specific location. If a proposed use, such as tobacco retailing near schools is not "permitted" by the zoning code or "prohibited," it can be "conditionally permitted" depending on site-specific factors. A retailer would have to apply for a CUP in order to open a business in a specific location. A restriction on the issuance of a CUP can be that the tobacco retailer is not located within a certain distance of schools. Sixteen municipalities have adopted this type of policy.

4. **Direct Regulation (Reg)** – this type of law is enacted under the general police powers of the municipality to protect the health, safety, welfare and morals of their citizens. Unlike TRL, zoning, and CUP ordinances, for this type of law an enforcement mechanism must be specifically created or incorporated by referencing another part of the municipal code (TRL and zoning ordinances already include enforcement procedures that apply to any violation.) A regulatory ordinance can be enforced in many ways, for example through civil suit or criminal prosecution, administrative citations, or as a nuisance through administrative, civil or criminal nuisance abatement proceedings. No cities has adopted this type of ordinance to restrict tobacco retailers near schools.

#### **Type of Tobacco Retailers that are Subject to the Ordinance**

Another significant distinction for these policies is whether the policy restricts the location of all tobacco retailers or just significant tobacco retailers. The column on the right side contains the information about which type of retailers are subject to the ordinance. The municipalities that contain an "X" in the column are the strongest type of policy and restrict every retailer that sells tobacco products within a certain distance of schools. Twelve municipalities have adopted this type of ordinance, including every ordinance that has been adopted since April 2010. The other policy option is to only restrict the location of significant tobacco retailers. Eight municipalities have adopted an ordinance that only applies to significant tobacco retailers. One municipality has adopted an ordinance that only applies to retailers other than significant tobacco retailers.

#### **Other Important Policy Provisions**

In addition, the Matrix also contains information about five other policy provisions relevant to restrictions on the sale of tobacco products near schools. For each of these provisions, the full question is listed below along with information on trends and most common responses from the 29 ordinances:

- *Does the policy prohibits tobacco retailers from being located within what distance of schools?* The restrictions range from 500 feet to 1,500 feet, with the majority (18 of 29) restricting sales within 1,000 feet of schools.
- *Does the policy apply to existing retailers (no grandfathering)?* A majority of the policies (28 of 29) do not subject existing retailers to the location restrictions but would only apply to new retailers and grandfather in existing retailers. However, for several of these cities and counties, there were no existing retailers within that restricted distance from schools.
- *What other youth-oriented areas do the distance requirements apply to other than schools?* In addition to schools, the majority of these policies (22 of 29) also restrict tobacco retailers within a certain distance of other youth-oriented areas. The most popular other location is parks and/or playgrounds, which 18 cities and counties restrict tobacco retailers near in addition to schools.
- *Does the policy restrict tobacco retailers from being located within a certain distance of other tobacco retailers?* In addition to schools and other youth-oriented areas, some of these ordinances contain a density provision that restricts tobacco retailers from being located near other tobacco retailers. Nine ordinances contain this provision and the distance restrictions range from 200 to 1,500 feet.

#### **Resources**

The Center has additional resources on restricting tobacco retailers near schools and tobacco retailer licensing ordinances available at [www.center4tobaccopolicy.org/localpolicies-licensing](http://www.center4tobaccopolicy.org/localpolicies-licensing). ChangeLab Solution has model ordinance language available for tobacco retailer licensing ordinances, conditional use permits and zoning ordinances at <http://changelabsolutions.org/>.

City/County Date Passed	Type of Policy				Distance (in feet) from schools?	Apply to existing retailers (no grandfathering)?	What other youth- oriented areas (other than schools) are included?	Restricts retailers within a certain distance of other retailers?	Apply to every retailer who sells tobacco products?
	TRL	Zoning	CUP	Reg					
Carpinteria May 2013		X			1,000	No	None	No	X
Oroville March 2013		X			500	No	Residences, parks, and places of worship	No	X
Dublin December 2012		X			1,000	No	500 feet from playgrounds, parks libraries, and City owned and operated recreational facilities	Yes (1,000 feet)	X
Sacramento June 2012			X		1,000	No (but retailers are allowed within the restricted area if 10% or less floor space has tobacco products)	None	No	X
Huntington Park December 2011	X				500	No	Library, playground, youth center, recreational facility open to the public, arcade open to the public, parks	Yes (200 feet)	X
West Hollywood March 2011	X				600	No	None	No	
Santa Barbara County November 2010	X				1,000	No	None	No	X
Santa Clara County November 2010	X				1,000	No	None	Yes (500 feet)	X
South Pasadena November 2010	X				500	No (but there were no retailers within restricted area)	None	No	X
Riverbank July 2010	X				500	Yes	Playgrounds	No	X
Adelanto May 2010		X			1,000	No	Playground, church, public library or childcare facility	No	X

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	TRL	Zoning	CUP	Reg					
Calabasas April 2010	X				500	No (but there were no retailers within restricted area)	None	No	X
Palmdale January 2010			X		500	No	Commercial daycare center, hospitals, parks, libraries, recreation centers	No	X
Union City January 2010			X		1,000	No	Park, playground, library, recreation center, religious institution, youth-oriented establishment	Yes (1,000 feet)	
Vallejo December 2009			X		1,000	No	Church, public recreation area	Yes (1,000 feet)	
Windsor November 2009			X		600	No (but there were no retailers within restricted area)	Religious institutions, libraries and parks	No	
Saratoga October 2009			X		1,000	No	Parks	Yes (500 feet)	X
Rohnert Park April 2009			X		500	No	Religious assembly, public facility, multi-unit residential development	Yes (500 feet)	
Albany February 2009			X		500	Yes	Childcare centers, public libraries, public community centers, parks or playgrounds	No	
Oakland April 2008			X		1,000	No	Residential zone, library, park, playground, recreation center, licensed daycare facility	No	X
La Mirada November 2007			X		600	No	Church, temple, park	Yes (500 feet)	

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	TRL	Zoning	CUP	Reg					
Mountain View February 2005			X		1,000	No (if existing retailers are caught selling to minors twice in a 36 month period, they must apply for a CUP)	Childcare facility or preschool other than family daycare, playground, youth center, recreational facility	No	
Pasadena February 2004			X		1,000	No	Game arcade, internet access studio, library, licensed childcare facility other than family daycare, park and recreation facility, theater	No	
San Rafael February 2003			X		1,000	No	Parks, libraries, arcades, youth/teen centers, community/recreation centers, licensed daycare centers, shopping malls, houses of worship with youth programs	No	
Marin County 2002			X		1,000	No	Childcare facility or preschool other than family daycare, playground, youth or teen center, community or recreation center, arcade, park, library, houses of worship with youth activities	No	
Berkeley November 2001			X		1,400	No	Public Park	No	
San Leandro July 2001			X		1,500	No	Park, library, recreational facility	Yes (1,500 feet)	
Novato April 2001		X			1,000	No	Parks or other land use oriented to minors as	No	